



MINUTES

Tuesday, July 3, 2018

5:30 P.M. Closed Session

6:30 P.M. Open Session

**REGULAR MEETING
CITY COUNCIL, AIRPORT COMMISSION,
MARINA ABRAMS B NON-PROFIT CORPORATION, PRESTON PARK SUSTAINABLE
COMMUNITY NON-PROFIT CORPORATION AND SUCCESSOR AGENCY OF THE
FORMER MARINA REDEVELOPMENT AGENCY**

Council Chambers
211 Hillcrest Avenue
Marina, California

1. CALL TO ORDER
2. ROLL CALL & ESTABLISHMENT OF QUORUM: (City Council, Airport Commissioners, Marina Abrams B Non-Profit Corporation, and Successor Agency of the Former Redevelopment Agency Members)

MEMBERS PRESENT: Nancy Amadeo, Gail Morton, Frank O'Connell, Mayor Pro-Tem/Vice Chair, David W. Brown, Mayor/Chair Bruce C. Delgado
3. CLOSED SESSION: *As permitted by Government Code Section 54956 et seq., the (City Council, Airport Commissioners, Marina Abrams B Non-Profit Corporation, and Redevelopment Agency Members) may adjourn to a Closed or Executive Session to consider specific matters dealing with litigation, certain personnel matters, property negotiations or to confer with the City's Meyers-Milias-Brown Act representative.*
 - a. Conference with legal Counsel: initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9: one potential case.
 - b. Real Property Negotiations
 - i. Property: Marina Municipal Airport Business Park
Negotiating Party: Joby Aviation LLC
Property Negotiator: City Manager
Terms: All terms and conditions

6:50 PM - RECONVENE OPEN SESSION AND REPORT ON ANY ACTIONS TAKEN IN CLOSED SESSION

Robert Rathie, Assistant City Attorney reported out closed session: Council met at 5:30 pm with regard to the two items listed having to do with Anticipated Litigation and Real Property Negotiations. Council received information, direction received and no reportable action was taken.

4. MOMENT OF SILENCE & PLEDGE OF ALLEGIANCE (Please stand)

5. SPECIAL PRESENTATIONS:

- a Certificate of Adjournment - Elrose “Candy” Myers-Owen
- b Marina Pony Annual Shetland Tournament Name Designation Plaque
- c Parks and Recreation Month Proclamation
- d Recreation Announcements

6. SPECIAL ANNOUNCEMENTS AND COMMUNICATIONS FROM THE FLOOR: *Any member of the Public or the City Council may make an announcement of special events or meetings of interest as information to Council and Public. Any member of the public may comment on any matter within the City Council’s jurisdiction which is not on the agenda. Please state your name for the record. Action will not be taken on an item that is not on the agenda. If it requires action, it will be referred to staff and/or placed on a future agenda. City Council members or City staff may briefly respond to statements made or questions posed as permitted by Government Code Section 54954.2. In order that all interested parties have an opportunity to speak, please limit comments to a maximum of four (4) minutes. Any member of the public may comment on any matter listed on this agenda at the time the matter is being considered by the City Council.*

- Paula Pelot – Relative to Preston and Abrams Park has the City Manager arranged through Alliance or directly through BRAC for the survey of the properties related to the smoke grenades that were found out there? Asked about the repair of the capstones from the Preston Sports Park. Knows the weeds were taken down but the capstones for the rusted pipes exposed are much more a liability.
- Police & Fire Chiefs – Reminded everyone that the 4th of July is tomorrow and talked about recommended safety tips related to local laws, read the labels and look for Safe & Sane, supervision by responsible adults, submerge used fireworks in metal water bucket, don’t mix alcohol and fireworks, do not use near buildings or grassy fields, always wear eye protection. For reporting the use of illegal fireworks contact 9-1-1. Related to pets: do not bring them to fireworks displays, keep them in a calm and quiet room, make sure your pets are tagged or microchipped in case they run off; on behalf of Marina Police and Fire we want to wish everyone a happy and safe and sane 4th of July.
- Lisa Berkeley – Noted that we have a city full for Vets and people that have been through war torn countries and many of them may have PTSD and encouraged people to check with friends, family and loved ones to see if there is any cases of PTSD and what kind of care is needed so that we don’t have more wounded.
- Nancy Amadeo – Commented on 2 news articles regarding homelessness and the problem/issues surrounding them in relation to overcrowding of parks, syringes, human waste, blood and the fact that city employees not having the proper equipment to clean up the mess directly related to homelessness. This is something plaguing all our cities and certainly has been a problem for Marina and other peninsula in Monterey County. Noted one article spoke about where homelessness has become so crowded that they are now losing businesses in their hotels and convention centers. We need to be addressing the issue of how to house the current homeless population. There are programs coming forward and the city needs to look at the dollars being made available to create low-income housing and find a way to access that money so that the problems of the big cities do not become the same problem here.

- Christina Medina-Dirkson – Friends of the Marina Library wanted to thank the Police and Fire Department who came to our All-Children’s Birthday Celebration on May 12th. We had an excess of 400 children and families and it was a wonderful event and brought a lot people to Marina and it was a free event. Thank you for supporting the Friends and helping our library be a gathering place for our community. As we plan next year we look forward to making it bigger, better, it was in honor of Astrid Lang family member and is held every year.
- Mayor Delgado – Announced the 43rd Annual Labor Day Parade and Festival on Saturday, September 1st followed by a 3-hour festival with live music, games, food and lots of booths. If you are interested in participating please contact me at 277-7690 or by email at bdelgado62@gmail.com . We encourage the community to come out as entries in the parade, as volunteers to put it together and implement it the day of and as always, we’re looking for sponsors; July 6th from 5:30-8:30pm is the Locke Paddon Park Oak Woodland Volunteer Restoration project; and Sunday, July 8th from 10:00am-Noon will be the 6th Community Clean-up along Lapis Road, Del Monte Blvd area.
- Council Member Morton – Friday, July 13, 2018 at 2:00 pm is the FORA Board meeting at the Carpenters Hall and also tentatively scheduled, if you came to the last FORA Board workshop addressing our transition plan, they tentatively scheduled a follow-up second session for that morning at 10:00am. Our participation as a city, meaning the publics participation in making sure the best interest of the City of Marina is represented at those hearings, at those discussions is so critical. Check the FORA website (www.fora.org) for details.
- Council Member Amadeo – Marina In Motion this year will be hosting Forums for candidates for public office. We have two dates of September 15th and September 22nd and we will be hosting for Council, Mayor, MPUSD and the Water Board. As for the Labor Day Parade, how do people wishing to participate in the Labor Day Parade who do they contact?
- Council Member O’Connell – Marina Democratic Club will also be having a Forum on August 25, 2018 for the candidates at MCWD as well as the Council and the Mayor. More information will be provided at a later time.

7. CONSENT AGENDA FOR THE SUCCESSOR AGENCY TO THE FORMER MARINA REDEVELOPMENT AGENCY: *Background information has been provided to the Successor Agency of the former Redevelopment Agency on all matters listed under the Consent Agenda, and these items are considered to be routine. All items under the Consent Agenda are normally approved by one motion. Prior to such a motion being made, any member of the public or the City Council may ask a question or make a comment about an agenda item and staff will provide a response. If discussion or a lengthy explanation is required, that item will be removed from the Consent Agenda for Successor Agency to the former Marina Redevelopment Agency and placed at the end of Other Action Items Successor Agency to the former Marina Redevelopment Agency.*

8. CONSENT AGENDA: *Background information has been provided to the City Council, Airport Commission, Marina Abrams B Non-Profit Corporation, and Redevelopment Agency on all matters listed under the Consent Agenda, and these items are considered to be routine. All items under the Consent Agenda are normally approved by one motion. Prior to such a motion being made, any member of the public or the City Council may ask a question or make a comment about an agenda item and staff will provide a response. If discussion or a lengthy explanation is required, that item will be removed from the Consent Agenda and placed at the end of Other Action Items.*

a. ACCOUNTS PAYABLE:

- (1) Accounts Payable Check Numbers 85188-85263, totaling \$171,433.93
- Chase Test Check Number 90010, totaling \$2.00
- Wire transfers from Checking and Payroll for May 2018, totaling \$482,418.67

- b. MINUTES:
 - (1) June 5, 2018, Regular City Council Meeting
 - (2) June 19, 2018, Regular City Council Meeting
- c. CLAIMS AGAINST THE CITY: None
- d. AWARD OF BID: None
- e. CALL FOR BIDS: None
- f. ADOPTION OF RESOLUTIONS:
- g. APPROVAL OF AGREEMENTS:
 - (1) City Council consider adopting Resolution No. 2018-, authorizing an interlocal contract for cooperative purchasing of goods and services with the Houston-Galveston Area Council (H-GAC); and, authorize the City Manager to execute the interlocal contract with H-GAC on behalf of the City subject to final review and approval by the City Attorney. *Pulled by Council Member Morton, becomes agenda item 11a*
- h. ACCEPTANCE OF PUBLIC IMPROVEMENTS: None
- i. MAPS: None
- j. REPORTS: (RECEIVE AND FILE):
- k. FUNDING & BUDGET MATTERS: None
- l. APPROVE ORDINANCES (WAIVE SECOND READING):
 - (1) City Council consider reading by title only and adopting **Ordinance No. 2018-05**, approving the first amendment to the Development Agreement between the City, Cypress Marina Heights, LLC and Wathan Castanos Peterson Homes, Inc.
- m. APPROVE APPOINTMENTS: None

Council Member Morton pulled agenda items 8g(1) and 8l(1)

Council Member O’Connell pulled agenda item 8b(2) to vote separately on so he could abstain

DELGADO/ : TO APPROVE THE CONSENT AGENDA MINUS 8b(2), 8g(1) AND 8l(1). 5-0-0-0 Motion Passes

DELGADO/BROWN: TO APPROVE AGENDA ITEM 8b(2). 4-0-0-1(O’Connell) Motion Passes

Agenda Item 8l(1)

Council Member Morton – At last meeting raised two concerns with the contract which affects this resolution. The two questions I had relates to “enforcement and collection of money” from a developer that’s not a party to the contract and the obligation to the City of Marina has of \$804,000 to the developer that not a party to the amended contract and part of this resolution. Having difficulties with Cypress Marina Heights LLC is a party to the initial contact and under those initial agreements we had a commitment that we now owe that development company, that LLC \$804,000.

Currently we've entered into or are about to enter into a modification that extends solely to Wathen Castanos Peterson Homes that purports to relieve us of a liability of \$804,000. But Mr. Lande who is part of the other primary organization is not a party, is not aqueous, has not agreed, has not signed and there is only a partial assignment from the Marina Heights to this organization. So, from a legal standpoint my concern is that should Cypress Marina Heights deem necessary or want to or has a contractual right existing currently to collect \$804,000 from us, how is that obviated?

Council Member O'Connell – on page 61, “Notwithstanding” section making reference to if you are unable to sell more than 8 below market rate homes for a period of 6-months after completion...” lets' assume that applies to Phase II of the project and say you continue to build the market rate homes, which you are entitled to do under this agreement, and a qualified buyer comes in for BRM home but wants to live in not Phase II of the project but Phase IV of the project, what if any obligation do you feel you have to that qualified buyer for BMR homes as to his/her desire to live in Phase IV?

DELGADO/AMADEO: TO APPROVE SECOND READING BY TITLE ONLY AND ADOPTING ORDINANCE NO. 2018-05, APPROVING THE FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT BETWEEN THE CITY, CYPRESS MARINA HEIGHTS, LLC AND WATHAN CASTANOS PETERSON HOMES, INC. 3-2(Morton, O'Connell)-0
Motion Passes by Roll Call Vote

9. **PUBLIC HEARINGS:**

- a. Open a public hearing and take any testimony from the public; and consider adopting **Resolution No. 2018-73**, authorizing California Law enforcement officers and those certified to enforce all or portions of the California Vehicle Code and/or Title 10 “Vehicles and Traffic” of the Marina Municipal Code upon all streets within Preston Park and Abrams Park generally held open for use by the public for purposes of vehicular travel.

Tina Nieto, Police Chief – This is to cover a gray area of enforcing traffic laws within Preston and Abrams Park. This would allow parking enforcement officers trained by law or law enforcement officers to apply municipal codes on the roads of Preston and Abrams that are not city maintained roads.

Council Questions: is there a downside to this; is the cost of having our police that fulfill this function of parking tickets/policing the streets less or more than is Alliance hires responsible agencies or individuals to fulfill this function; what is the benefit of not just dedicating the roads to the City of Marina; if it's been our past practice of city staff enforcement how does this measure tonight rectify, improve the ability, enhance enforcement what is this going to do for residents of Preston and Abrams Park that doesn't exist as of right now; is the language in this document the exact same language that empowers the police to enforce on any other city street;

Mayor opened Public Hearing for Public Comments:

- Paula Pelot – we appreciate having this done. We did have a private security hired by Alliance at one time that was very ineffective. This is about city ordinance and vehicle code. There may be some parking issues out there that will still might not be resolved by this so I just wanted to make that clear. There are rules and regulations about parking on the lawns but a car parking in a driveway but blocking the sidewalk that is a vehicle code violation and those are the ones that need to be enforced. Pointed out a couple of things in the report that might be “buggy”: on page 2, first paragraph it talks about the streets that were not dedicated (Abrams, Preston, Whittemyer Ct.) and says these streets are not maintained by the city but by Alliance. Whittemyer belongs to Shelter

Outreach or Outward Bound. Preston Drive... Abrams Drive I'm not really certain about that because that turns into West Abrams and I think that's a public street. And in the numeration at the bottom of the page where it says Preston Park, it does say Preston Drive there, so that might be a mistake. On the last page below the numeration of Abrams Park, the paragraph starting with pursuant to California Vehicle Code, the second sentence says, "would confirm the authority but not mandate California law enforcement" I would like some clarity on that. Is that the discretion of the officer or is that consistent with the way it is for all the other streets in Marina?

MORTON/AMADEO: THAT WE CLOSE THE PUBLIC HEARING AND ADOPT RESOLUTION NO. 2018-73, AUTHORIZING CALIFORNIA LAW ENFORCEMENT OFFICERS AND THOSE CERTIFIED TO ENFORCE ALL OR PORTIONS OF THE CALIFORNIA VEHICLE CODE AND/OR TITLE 10 "VEHICLES AND TRAFFIC" OF THE MARINA MUNICIPAL CODE UPON ALL STREETS WITHIN PRESTON PARK AND ABRAMS PARK GENERALLY HELD OPEN FOR USE BY THE PUBLIC FOR PURPOSES OF VEHICULAR TRAVEL AS SPECIFICALLY IDENTIFIED IN THE RESOLUTION EXCEPTING THE NUMBER 8 IN THE PRESTON PARK CALLED PRESTON DRIVE . 5-0-0-0 Motion Passes

10. OTHER ACTIONS ITEMS OF THE SUCCESSOR AGENCY TO THE FORMER MARINA REDEVELOPMENT AGENCY: *Action listed for each Agenda item is that which is requested by staff. The Successor Agency may, at its discretion, take action on any items. The public is invited to approach the podium to provide up to four (4) minutes of public comment.*
11. OTHER ACTION ITEMS: *Action listed for each Agenda item is that which is requested by staff. The City Council may, at its discretion, take action on any items. The public is invited to approach the podium to provide up to four (4) minutes of public comment.*

Note: No additional major projects or programs should be undertaken without review of the impacts on existing priorities (Resolution No. 2006-79 – April 4, 2006).

- a. City Council consider adopting **Resolution No. 2018-74**, authorizing an interlocal contract for cooperative purchasing of goods and services with the Houston-Galveston Area Council (H-GAC); and, authorize the City Manager to execute the interlocal contract with H-GAC on behalf of the City subject to final review and approval by the City Attorney. ***Pulled by Council Member Morton, was agenda item 8g(1)***

Council Member Morton – we are 1 or 13 agencies trying to join a purchasing organization from Houston- Galveston Area Council, is that Texas? Why Houston? Is this an organization that is most reasonable as far as pricing? Is it exclusive? It states that this agreement will automatically renew each year, will this come before council for approval? Who oversee the consortium remains as the best option for the City of Marina? What law is to be followed, is it California or Texas?

DELGADO/AMADEO: TO APPROVE RESOLUTION NO. 2018-74, AUTHORIZING AN INTERLOCAL CONTRACT FOR COOPERATIVE PURCHASING OF GOODS AND SERVICES WITH THE HOUSTON-GALVESTON AREA COUNCIL (H-GAC); AND, AUTHORIZE THE CITY MANAGER TO EXECUTE THE INTERLOCAL CONTRACT WITH H-GAC ON BEHALF OF THE CITY SUBJECT TO FINAL REVIEW AND APPROVAL BY THE CITY ATTORNEY. 5-0-0-0 Motion Passes

- b. City Council consider adopting **Resolution No. 2018-75**, authorizing the lease purchase of Motorola Mobile Radios, Portable Radios and Body Worn Cameras along with the required accessories through the HGAC cooperative purchasing program utilizing the 4-year lease option and authorizing the Subscription Services agreement for the Command Vault Data Storage; and, authorize the Finance Director to make necessary accounting and budgetary entries, and; authorize the City Manager to execute lease purchase agreements and subscription agreements on behalf of the City subject to final review and approval by the City Attorney.

Doug McCoun, Fire Chief – The City’s current radios(Kenwood) are obsolete and will not work with the new NGEN Radio System. Upgrades have been made to make them work and had techs come out from Kenwood to assist. We are currently use the Legacy Analog System and if we are to continue to use this system will be required to paying for it and that’s a lot of money. We don’t have the capability to use the full system. We have done a lot of testing and research to get to the Motorola.

Council Questions: How would the Motorola radios communicate with the Harris radios or others; what is the camera quality of the combined unit as opposed to separate body cam; lease agreement makes reference to the payment of the full amount of \$741,390.40 plus interest, will the city own all that equipment; under the purchase option, paragraph 18, is there any hidden costs that’s anticipated beyond this money; is there any software that is going to be updated under this?

DELGADO/BROWN: TO APPROVE RESOLUTION NO. 2018-75, AUTHORIZING THE LEASE PURCHASE OF MOTOROLA MOBILE RADIOS, PORTABLE RADIOS AND BODY WORN CAMERAS ALONG WITH THE REQUIRED ACCESSORIES THROUGH THE HGAC COOPERATIVE PURCHASING PROGRAM UTILIZING THE 4-YEAR LEASE OPTION AND AUTHORIZING THE SUBSCRIPTION SERVICES AGREEMENT FOR THE COMMAND VAULT DATA STORAGE; AND, AUTHORIZE THE FINANCE DIRECTOR TO MAKE NECESSARY ACCOUNTING AND BUDGETARY ENTRIES, AND; AUTHORIZE THE CITY MANAGER TO EXECUTE LEASE PURCHASE AGREEMENTS AND SUBSCRIPTION AGREEMENTS ON BEHALF OF THE CITY SUBJECT TO FINAL REVIEW AND APPROVAL BY THE CITY ATTORNEY. 5-0-0-0 Motion Passes

- c. City Council to receive Certificate of Sufficiency of Initiative Petition with respect to initiative ordinance increasing and extending the transactions and use tax. Take one of the following actions: adopt **Resolution No. 2018-76** of the City Council of the City of Marina Submitting to the Voters at the November 6, 2018 General Municipal Election an Initiative Ordinance Increasing and Extending the Transactions and Use (“Sales”) Tax Requesting County Elections Officials to Conduct the Election, and Requesting Consolidation of the Election; or (b) Adopt Resolution of the City Council of the City of Marina Ordering a Report Pursuant to Elections Code Section 9212 Regarding an Initiative Ordinance Increasing and Extending the Transactions and Use (“Sales”) Tax; consider Introduction of Initiative Ordinance.

Robert Rathie, Assistant City Attorney – the next two items are to receive the Certificates of Sufficiency for three (3) Initiative Petition that were circulated previously in the city. These concern the Transaction and Use Tax (Sales Tax) increasing that by one-half of a percent (.5%); the Transient Occupancy Tax (TOT) which the petition seeks to increase that by two percent (2%) and also a measure that would allow cannabis businesses in the city and would include a tax for those businesses as well. All these measures were circulated, signatures were obtained and then delivered to the City Clerk who is also the city’s election official and then sent to the County.

The County used a random sampling method to verify the signatures on the petitions and determined how many signatures were required to have the petitions qualify to appear on the ballot and verified that in fact that number of signatures had been achieved and in fact exceeded for all three petitions.

The Councils' first duty tonight would be to receive the certification that is made by our Deputy City Clerk as the city's election official and also made by the County of Monterey Elections Department and then Council would have the option to adopt a resolution, which would direct that the measure be placed on the ballot for the November 6th election or to order a report on the effect of any or all of these measures; and that report would need to be provided to Council no later than 30-days from tonight, which would be August 2nd, it could be provided earlier than that.

The Report would include anything essentially that the Council felt was warranted as far as the effect of any of the measures, such things as their fiscal affect, the effect on the general plan or any specific plan, effect on city infrastructure, all those types of things discussed in the statute that provides the report but they are not exclusive and the council has the ability to add other items. The reports are not required or mandatory. In the case of the Transaction Use Tax (Sales Tax) and also the Transient Occupancy Tax (TOT) essentially the effect of the measure is going to be exclusively a fiscal affect and that affect is easily calculated.

The action tonight for the Council is administrial. This is something that is required by the State indifference to the Election Code that provides for the citizens to bring forward initiatives that are then placed on ballot. Each one of these measures would require 2/3rd vote of all members of the Council. This is not a requirement of the election code but it is a requirement of the Government Code because each of these measures proposes a general tax.

In the sense that you are voting tonight, you are not voting whether you are supporting the measure by voting in favor of placing it on the ballot you are only fulfilling your administrial duty by placing it on the ballot with the required number of votes.

There is a little bit of a difference for the first measure which is the Transaction and Use Tax in that there is a section of the Revenue and Taxation Code that requires any general tax to be approved by a 2/3rd vote of all members of the body and that is in order for the State Board of Equalization to enforce the tax. With the Transaction and Use Tax again, as a requirement of the Revenue and Taxation the State Board of Equalization they require that the ordinance actually be introduced by the Council and then brought back for a second reading as well as it must be approved by the voters of the election. The other two measures do not require that the ordinance be introduced and then come back for a second reading.

Council Questions: what recourse do the citizens have that signed this if council exercised its administrial act or authority to say no, do they have a remedy; disregarding a "Report" is this the one-time shot for the council at this time if the council were to vote to put this first one on the ballot other than the second reading, would this be the time to cast a vote one-way or the other; when you say administrial act do you mean that the council is ultimately required either with or without report to put it on the ballot; if we did not for whatever reason pass this with a 4-1 vote then proponents or other persons could bring a lawsuit to force the city to do so and get attorney's fees awarded against the city, correct; is the council opted for the report on a measure with an expiration/sunset date on it and it came back saying the city would lose X amount of dollars, could the council then say we do not want an expiration on it or put a different expiration or does it have to go forward exactly as it was presented; is past meeting is stated that the council would have the choice of putting it on the ballot unaltered as a citizens initiative or unaltered as a city initiative, is that choice still before us; explanation of the difference of options a or b in staff report; why would the council do one rather than the other; what is the point of ordering a report if we have to put it on the ballot regardless of what the report says?

Morton/Brown: to receive Certificate of Sufficiency of Initiative Petition with respect to Initiative Ordinance increasing and extending the Transactions and Use Tax; and adopt Resolution No. 2018-76 of the City Council of the City of Marina submitting to the voters at the November 6, 2018 General Municipal Election an Initiative Ordinance increasing and Extending the Transactions and Use (“Sales”) Tax, requesting County Elections officials to conduct the election, and requesting consolidation of the election as set forth in “Exhibit E”; and to introduce the Initiative Ordinance as set forth in “Exhibit A”.

Public Comments:

- Paula Pelot – Signed the petition because when Council Member Morton brought this and the Hotel Tax to the February 18th workshop and it was Council Member O’Connell, on his way out of the workshop who said put the cannabis one on the ballot I thought those were good ideas for the City Council to consider. What is disturbing is that it never came back to the council. I heard from some of the proponents that they didn’t feel they would get the 4 votes. Seems there is a pretty broad support for these so I think the expense and time that people took to go for most of these citizen initiatives wasn’t necessary if the council had just been given the opportunity to see that and that was in February. One thing that is not disclosed in this report is that there is a cost for the signature verification. There is a base line charge of \$500 to cover their initial count plus labor, expectation is about \$1000 per petition. That is money that we’re going to spend that we didn’t need to. Asked that if we’re going to do this the next time don’t make citizens go out and do this and spend their money.
- Harvey Biala – read a short statement on behalf of his wife Kathy as she could not attend the meeting. Wished to encourage the council to place the sales tax on the November ballot as either a city of citizen initiative and to take such an action within 30-days and not create any delays. The fact that sufficient public support was garnered by successful petition campaign bears the support of this council.
- Christina Medina-Dirksen – Joined a committee for A Better Safer Marina and was one of the people who went out and gathered signatures on the sales tax petition. Learned that there is overwhelming support here in Marina for the sales tax. One issue on the Sales Tax, while it is a general tax and will go to the general fund, wanted to let council know that the community support lies with the police, fire and public works. Our streets are not in the best shape. While this is a general tax your citizens would like that those are some of the strong priorities before them. Urged council to adopt the resolutions and to not delay with a report.
- Lisa Berkeley – Supports all the initiatives, however is concerned that all the income generated will be put into the general fund. The way it was sold on the street that is was to be support fire, police and roads/infrastructure and my concerns is that those funds won’t be put to those uses. Would like to know if there is any way we can be sure that it will honor the spirit of what these citizen initiatives was intended for?

Council and Staff discussed making small changes to the ballot language

Ballot Language

To sustain and improve city services such as fire, police, road repairs & maintenance, shall the ordinance increasing the rate of the City of Marina’s existing transactions & use (“sales”) tax from 1% to 1.5% estimated to generate approximately \$4,890,000 annually as compared with \$3,260,000 for the current tax and extending the expiration date for the tax to March 31, 2034 be adopted?

Public Comments on suggested ballot language:

- Paula Pelot – concerned about the enumerate. Thinks the enumerating is important because it gets the support and that’s what you want. Suggest something more generic, instead of saying “such

as” say “for support of public services provided by the City of Marina”. Thinks council is getting into a problem. Been here for 20-years and have heard the same thing about “he said/she said” and we didn’t because we enumerated those things. Thinks you’re now creating an issue down the road by enumerating

- Lisa Berkeley – why not add “such as but not limited too” and then list them.

Amended Motion

MORTON/BROWN: to include the Ballot Language “To sustain and improve city services such as fire, police, road repairs & maintenance, shall the ordinance increasing the rate of the City of Marina’s existing transactions & use (“sales”) tax from 1% to 1.5% estimated to generate approximately \$4,890,000 annually as compared with \$3,260,000 for the current tax and extending the expiration date for the tax to March 31, 2034 be adopted?”

FINAL MOTION

MORTON/BROWN: TO RECEIVE CERTIFICATE OF SUFFICIENCY OF INITIATIVE PETITION WITH RESPECT TO INITIATIVE ORDINANCE INCREASING AND EXTENDING THE TRANSACTIONS AND USE TAX; AND ADOPT RESOLUTION NO. 2018-76 OF THE CITY COUNCIL OF THE CITY OF MARINA SUBMITTING TO THE VOTERS AT THE NOVEMBER 6, 2018 GENERAL MUNICIPAL ELECTION AN INITIATIVE ORDINANCE INCREASING AND EXTENDING THE TRANSACTIONS AND USE (“SALES”) TAX, REQUESTING COUNTY ELECTIONS OFFICIALS TO CONDUCT THE ELECTION, AND REQUESTING CONSOLIDATION OF THE ELECTION AS SET FORTH EN “EXHIBIT E”; AND TO INTRODUCE THE INITIATIVE ORDINANCE AS SET FORTH IN “EXHIBIT A”; AND TO INCLUDE THE BALLOT LANGUAGE “TO SUSTAIN AND IMPROVE CITY SERVICES SUCH AS FIRE, POLICE, ROAD REPAIRS & MAINTENANCE, SHALL THE ORDINANCE INCREASING THE RATE OF THE CITY OF MARINA’S EXISTING TRANSACTIONS & USE (“SALES”) TAX FROM 1% TO 1.5% ESTIMATED TO GENERATE APPROXIMATELY \$4,890,000 ANNUALLY AS COMPARED WITH \$3,260,000 FOR THE CURRENT TAX AND EXTENDING THE EXPIRATION DATE FOR THE TAX TO MARCH 31, 2034 BE ADOPTED?” 4-1(O’Connell)-0-0 Motion Passes

- d. City Council to receive Certificate of Sufficiency of Initiative Petition with respect to initiative ordinance increasing the transient occupancy tax. Take one of the following actions: (a) Adopt **Resolution No. 2018-77** of the City Council of the City of Marina Submitting to the Voters at the November 6, 2018 General Municipal Election an Initiative Ordinance Increasing the Transient Occupancy Tax (“Hotel Tax”), Requesting County Elections Officials to Conduct the Election, and Requesting Consolidation of the Election; or (b) Adopt Resolution of the City Council of the City of Marina Ordering a Report Pursuant to Elections Code Section 9212 Regarding an Initiative Ordinance Increasing the Transient Occupancy Tax (“Hotel Tax”).

Robert Rathie, Assistant City Attorney – this is an increase to the Transient Occupancy Tax, also known as the Hotel Tax, again it is a petition by the citizens. The petition was certified by the City Election Official and County Election Official, so tonight you would be receiving that certification and as in the last action with the Transaction and Use Tax you would either be adopting the resolution putting the measure on the ballot or ordering a report on the effects of this measure, which again are essentially and arithmetical calculation. Again, the action is administrative. Voting for this measure

tonight is not indicating your support of the measure it's indicating your support for putting on the ballot.

Mayor Pro-Tem Brown suggested adding the same ballot language as in the previous action in front the word "shall"

Council and Staff discussed making small changes to the ballot language

Ballot Language read by Lauren Lai, Finance Director

To sustain and improve city services such as fire, police, road repairs & maintenance, shall the ordinance increasing the rate of the City of Marina's existing transient occupancy tax ("hotel tax") from 12% to 14% estimated to generate approximately \$3,733,000 annually as compared with \$3,200,000 for the current tax and to continue until repealed by the voters be adopted?

MORTON/AMADEO: TO RECEIVE CERTIFICATE OF SUFFICIENCY OF INITIATIVE PETITION WITH RESPECT TO INITIATIVE ORDINANCE INCREASING THE TRANSIENT OCCUPANCY TAX; AND TO ADOPT RESOLUTION NO. 2018-77 OF THE CITY COUNCIL OF THE CITY OF MARINA SUBMITTING TO THE VOTERS AT THE NOVEMBER 6, 2018 GENERAL MUNICIPAL ELECTION AN INITIATIVE ORDINANCE INCREASING THE TRANSIENT OCCUPANCY TAX ("HOTEL TAX"), REQUESTING COUNTY ELECTIONS OFFICIALS TO CONDUCT THE ELECTION, AND REQUESTING CONSOLIDATION OF THE ELECTION; AND THAT THE BALLOT MEASURE LANGUAGE BE MODIFIED TO BE CONSISTENT WITH THE BALLOT MEASURE LANGUAGE PREPARATORY AS OUR FINANCE DIRECTOR JUST READ: "TO SUSTAIN AND IMPROVE CITY SERVICES SUCH AS FIRE, POLICE, ROAD REPAIRS & MAINTENANCE, SHALL THE ORDINANCE INCREASING THE RATE OF THE CITY OF MARINA'S EXISTING TRANSIENT OCCUPANCY TAX ("HOTEL TAX") FROM 12% TO 14% ESTIMATED TO GENERATE APPROXIMATELY \$3,733,000 ANNUALLY AS COMPARED WITH \$3,200,000 FOR THE CURRENT TAX AND TO CONTINUE UNTIL REPEALED BY THE VOTERS BE ADOPTED?" 5-0-0-0 Motion Passes

Public Comments:

- Paula Pelot – Believes that a couple of these things could have gone through. We had a workshop in February, we could have brought it before council and gotten a feel for it and saved a lot of pain, angst and money that I know was spent by the proponents in going out and doing this as well as the verification of signatures. Wanted to make that clear, it is contrary to the caustic remarks that Mayor Pro-Tem made directed at me, which were completely unnecessary and completely misinterpreting what is was I had to say.
- Christina Medina-Dirksen – pointed out that when she circulated she made the point to say that that these funds were general and implored residents to come to you to tell you when the time was how they wanted their money spent. Made a pledge that she would do that herself.

Mayor Pro-Tem Brown stated that Ms. Pelot comments had nothing to do with our adminsterial duty or not to put this on the ballot.

- e. City Council to receive Certificate of Sufficiency of Initiative Petition with respect to initiative ordinance relating to cannabis businesses. Take one of the following actions: (a) Adopt Resolution of the City Council of the City of Marina Submitting to the Voters at the November 6, 2018 General Municipal Election an Initiative Ordinance Relating to Cannabis Businesses, Requesting County Elections Officials to Conduct the Election, and Requesting Consolidation of the Election; or (b) Adopt **Resolution No. 2018-78** of the City Council of the City of Marina Ordering a Report Pursuant to Elections Code Section 9212 Regarding an Initiative Ordinance Relating to Cannabis Businesses.

Robert Rathie, Assistant City Attorney – this is related to cannabis business and establishing a tax rate for those businesses of the city. Again, a petition was circulated and signed by the voters. The city election official certified the sufficiency and the Monterey County Election verified that the petition was signed by requisite number of signers, which I would point out was slightly different of 1,017. The reason for that is because the Registrar of Voters is required to submit a report to the Secretary of State on a periodic basis of the number of voter in the city. The triggering date for that determination of the number of voters is the date of publication of the petition. The two previous petitions, were published earlier than the cannabis tax and that’s why there is a difference.

This would also be a general tax measure and the rate tax would vary but not exceed five percent (5%) of the gross receipts and the proposed ballot language is on page 200.

Council Questions: Mr. Mayor, when you walked around did you provide the people with a copy of this actual initiative? Did you go back to them after they had the opportunity to read it or did you wait for them to read it before you asked for their signature; Did you indicate to them that under federal law this could be or is illegal; We have a lot of land received from the Federal Government, could any of this land be available for use for cultivation, research & development, is Fort Ord an option; what about the airport; what are the impacts of putting cannabis on Fort Ord, what is the governance; if we ask for the 9212 Report is it 30-days and the report comes back to us or are we on a deadline that would preclude this from getting on the ballot; if it came before on August 8th with the report then we would exercise our adminsterial decision to put it on the ballot; how is it incumbent upon the motion tonight that she would indicate the scope of review in the report; who decides who does the report; is it staff doing the report or the attorney’s office, who?

9:59 pm

Delgado/Amadeo: that we go to 10:30 pm to try and cover the last two items on our agenda.

Substitute Motion

MORTON/BROWN: THAT WE FINISH THIS MATTER. 4-1(DELGADO)-0-0 SUBSTITUTE MOTION PASSES

Delgado/Amadeo: that we go to 10:10 to just to get this motion. 5-0-0-0

Public Comments on Motions to extend meeting.

- Paula Pelot – Agrees with Council Member Morton that everyone needs to be fresh for this, it’s going to be very intense and take a lot of time. It should be given the time it deserves so that everybody can be heard. Thinks it’s unfortunate that is wasn’t moved to the front of the agenda because I thought we would probably end up here. It doesn’t make sense to do this tonight and if we can schedule a meeting for Thursday or Friday or early next week, let’s do it as a sole item.

- Greg Fury – This is absolutely a terrible evening to schedule a matter of such importance and to try and cover at this late hour. There are a lot of people out of town that have interest in this. There are probably a lot of people probably going to sleep right now and it's terribly unfair and it's going to hurt people in the long run if this is not covered objectively, fairly with as wide an audience of interested people as possible.
- Mark Stevenson – I would like to continue to 10:30 so we can discuss the hotel item.
- Lisa Berkeley – I would like to hear the hotel item and there are several people here that want to make comments on the cannabis issue.
- Angie – Hopes we can finish the cannabis and that we can put that to rest tonight

AMADEO/MORTON: to receive the certificate of Sufficiency of Initiative Petition with respect to initiative ordinance relating to cannabis businesses; and to adopt a resolution of the city of marina ordering a report pursuant to elections code section 9212 Regarding an Initiative Ordinance Relating to Cannabis Businesses; the report would need to include:

1. **Appropriate areas for the various cannabis activities, including dispensaries, research and development, manufacturing, growing, and any other type of activity that is currently on the initiative**

and that the report be done by the outside agency of HdL or another similarly qualified consultant

Public Comments:

- Mark Stevenson – Had experience with the use of federal lands and although it can be negotiated you will lose your federal bonds or anything like that in relationship to the airport. Look deeply into that to make sure you understand.
- Seth Smith, Santa Cruz Veterans Alliance – we are one of the licensed cannabis businesses in Santa Cruz County. We operate a state licensed dispensary, state licensed cultivation, state licensed Type 7 to allow manufacturing facility and state licensed distribution. We wholesale to dispensaries throughout California. We are owned and operated fully by U.S. Veterans on the mission of providing free cannabis to Veterans. We have conducted research with the Palo Alto VA and Stanford University on the benefits of cannabis to treat many issues. We would like to bring studies like that to Marina or Monterey County through CSUMB or Hartnell College as it pertains to medical research or agricultural research. We are very interested in applying for, if the city sees fit to allow it, a retail dispensary location here in the city of Marina.
- Lisa Berkeley – in favor of this ordinance, however I hear the concerns of Council Members O'Connell and Amadeo and wonder about 1.) keeping a separate bank account for any revenue that's generated from it in case of federal intervention and freezing of assets; 2.) what is the replacement for any federal funds that the city gets?
- Margarita – opposes this ordinance and marijuana use altogether. Concerned about the use of marijuana by the kids. Neighbors constantly smoke and the smoke bothers her. It comes in through her windows.
- Greg Fury – Supports this happening in this town. The reality is marijuana is there and been out there for years. Nixon commissioned a bipartisan to evaluate marijuana and all of its pluses and minuses and the bipartisan group and they all came back with a statement and recommendation that it should not be considered a Class I drug. At the same time during the Vietnam War marijuana was the drug of choice and Nixon was not an unindicative person and apparently as a backlash to the fact that a population that protested against him used that as a recreational drug basically

ixnayed his commission's findings and listed it as a Class I drug. The result of that is that there is still, unfortunately have not been government funded or government sanctioned testing of marijuana. Noted there is a medicinal aspect to marijuana. The bottom line here is to regulate it, codify it, make sure it's controlled so the people are using is safely and appropriately.

- Dawn Alva – Owns a wine business and when people look at wine they're ok with all the ramifications and all the bad stuff that goes around alcohol but for some reason marijuana is an herbal substance that's been used for thousands of years and it's being demonized. Every I have come before the city council and this subject has been on the table I only hear reports, reports, reports. I support this citizens' initiative. They had requested that this get on the ballot and we should respect their wishes and in the process, do our due diligence and make sure that we allocate the right ordinances and all the right city and safety issues that support moving his forward. Does not think we should delay this any further.
- Angie – Supports the ordinance. Noted her medical issues and the use of high level CBD helped relieve her of her medical condition and believes this should be moved forward. Noted that the use of marijuana does not necessarily cause hallucinations.
- Tony – We are here tonight to discuss if we should let the people put this on the ballot to decide if it should be legal or not. It's the people's choice not Councils.
- Paula Pelot – Appreciates Margarite's remarks and concerns and one thing that does concern me that is not going to be addressed by this is the neighbor-to-neighbor invasion of the smoke. There are concerns about how people are going to use it in the public and how it's going to infringe on other people's health.

Mayor Delgado asked the city attorney if we could choose to put it on the ballot tonight and get the report but not have to wait for the report. Can we do both?

City Attorney Rathie – you couldn't do report under 9212 because that's one of the mutually exclusive options. You can secure a report under 9212 and direct another report to be prepared not under the election code.

Mayor Delgado – could we not send it to the ballot tonight and ask the city manager to give us a consultant prepared report on the subject? And it would be 100% the same report, if that's what we wanted?

City Attorney Rathie – Yes, you could do that. It would be 100% the same, the content of the report however, it wouldn't be prepared under 9212. Lawyerly distinction, it wouldn't be... you could set your timeline, it won't have to be 30-days, in other words the restrictions that apply to the 9212 report would not apply to a separate report that the council ordered.

Substitute Motion

Delgado/Brown: that we do as Council Member Amadeo suggested in her motion (to receive the certificate of Sufficiency of Initiative Petition with respect to initiative ordinance relating to cannabis businesses); and that that report be provided to us as soon as possible but that it not delay the decision tonight to put this on the ballot.

Council Member Morton asked Council Member Amadeo if she would amend her motion to include in the 9212 report a list of items.

Mayor Delgado would like to modify his motion if the Second still holds: that the report be within 30-days but to allow us to go ahead adopt the resolution submitting it to the voters tonight and directing the City Manager to provide that report within 30-days to us.

Mayor Pro-Tem Brown, the Second still hold

Modified Substitute Motion

Delgado/Brown: that we do as Council Member Amadeo suggested in her motion (to receive the certificate of Sufficiency of Initiative Petition with respect to initiative ordinance relating to cannabis businesses); and that the report be within 30-days but to allow us to go ahead adopt the resolution submitting it to the voters tonight and directing the City Manager to provide that report within 30-days to us. 2-3(Amadeo, Morton, O’Connell)-0 Substitute Motion fails

City Attorney suggested that Council give guidance and define the context of the report either under the EC 9212 or you do it under a motion that is not under 9212. That particular section sets out a number of different categories that you might want to consider, such as:

1. Fiscal Impact on internal consistency to the city’s general and specific plans
2. Effect on land use availability
3. Impact on funding for infrastructure
4. Ability to attract or retain business

Council Member Morton – so if the content of the report is to be exactly the same may I make what my request was going to be of the original motion maker: that in addition to the categories provided in Election Code 9212 in the report, that the report include

1. some analysis of the impact of exclusion if there is an impact such as exclusion from the ability to secure federal grants.
2. What are the risks of forfeiture or adverse impacts resulting from conflict of California Law and Federal Law and
3. whether those risks are impacted differently for medicinal marijuana and or recreational marijuana and
4. whether those risks are impacted differently based on your authorizing of cultivation, distribution, manufacturing or retail. But the different types of allowed uses that are being considered.

Council Member Amadeo accepted Council Member Morton’s amendment.

Final Motion

AMADEO/MORTON: TO RECEIVE THE CERTIFICATE OF SUFFICIENCY OF INITIATIVE PETITION WITH RESPECT TO INITIATIVE ORDINANCE RELATING TO CANNABIS BUSINESSES; AND TO ADOPT A RESOLUTION OF THE CITY OF MARINA ORDERING A REPORT PURSUANT TO ELECTIONS CODE SECTION 9212 REGARDING AN INITIATIVE ORDINANCE RELATING TO CANNABIS BUSINESSES; THE REPORT WOULD NEED TO INCLUDE:

1. **APPROPRIATE AREAS FOR THE VARIOUS CANNABIS ACTIVITIES, INCLUDING DISPENSARIES, RESEARCH AND DEVELOPMENT, MANUFACTURING, GROWING, AND ANY OTHER TYPE OF ACTIVITY THAT IS CURRENTLY ON THE INITIATIVE**
2. **FISCAL IMPACT ON INTERNAL CONSISTENCY TO THE CITY’S GENERAL AND SPECIFIC PLANS**
3. **EFFECT ON LAND USE AVAILABILITY**
4. **IMPACT ON FUNDING FOR INFRASTRUCTURE**

5. ABILITY TO ATTRACT OR RETAIN BUSINESS
6. SOME ANALYSIS OF THE IMPACT OF EXCLUSION IF THERE IS AN IMPACT SUCH AS EXCLUSION FROM THE ABILITY TO SECURE FEDERAL GRANTS.
7. WHAT ARE THE RISKS OF FORFEITURE OR ADVERSE IMPACTS RESULTING FROM CONFLICT OF CALIFORNIA LAW AND FEDERAL LAW AND
8. WHETHER THOSE RISKS ARE IMPACTED DIFFERENTLY FOR MEDICINAL MARIJUANA AND OR RECREATIONAL MARIJUANA AND
9. WHETHER THOSE RISKS ARE IMPACTED DIFFERENTLY BASED ON YOUR AUTHORIZING OF CULTIVATION, DISTRIBUTION, MANUFACTURING OR RETAIL. BUT THE DIFFERENT TYPES OF ALLOWED USES THAT ARE BEING CONSIDERED.

AND THAT THE REPORT BE DONE BY THE OUTSIDE AGENCY OF HDL OR ANOTHER SIMILARLY QUALIFIED CONSULTANT. 5-0-0-0 Motion Passes

- f. City Council consider request from the owner of the Marriot Springhill Suites Hotel for reconsideration of the Amendments to the Operating Covenant, Requirement to Repay Impact Fee Incentive and to pay Extension Fee. *Continued to July 17, 2018 to be listed as 11a.*

12. COUNCIL & STAFF INFORMATIONAL REPORTS:

- a. Monterey County Mayor's Association [Mayor Bruce Delgado]
- b. Council and staff opportunity to ask a question for clarification or make a brief report on his or her own activities as permitted by Government Code Section 54954.2.

13. ADJOURNMENT: The meeting adjourned at 10:45 pm in memory of Elrose "Candy" Myers-Owen

Anita Sharp, Deputy City Clerk

ATTEST:

Bruce C. Delgado, Mayor